

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Nissin BENVENISTY

Art Unit: 1632

Application No.: 09/995,452

Conf. No. 2188

Examiner: T. N. Ton

Filed: November 27, 2001

Washington, D.C.

For: TRANSFECTION OF HUMAN ...

Atty.'s Docket: BENVENISTY=5

Date: April 7, 2006



THE COMMISSIONER OF PATENTS
2011 South Clark Place, Mail Stop Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202
Sir:

Transmitted herewith is a **SUPPLEMENTAL RESPONSE** in the above-identified application. and the Declaration of Benvenisty and Exhibits A, B, & C.

☐ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

☐ No additional fee is required.

☐ The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	*	MINUS	** 20	0	x 25	\$		x 50	\$
INDEP.	*	MINUS	*** 3	0	x 100	\$		x 200	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 180	\$		+ 360	\$
					ADDITIONAL FEE TOTAL			TOTAL	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

☐ First - \$ 60.00
☐ Second - \$ 225.00
☐ Third - \$ 510.00
☐ Fourth - \$ 795.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

☐ First - \$ 120.00
☐ Second - \$ 450.00
☐ Third - \$ 1020.00
☐ Fourth - \$ 1590.00

Month After Time Period Set

☐ Less fees (\$) already paid for ___ month(s) extension of time on _____.

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$ _____.

☐ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ _____.

☐ A check in the amount of \$ _____ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

By:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: BENVENISTY=5

In re Application of:)	Confirmation No.: 2188
)	
Nissim BENVENISTY)	Art Unit: 1632
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Appln. No.: 09/995,452)	Examiner: T. N. Ton
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Filing Date: November 27, 2001)	April 7, 2006
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For: TRANSFECTION OF HUMAN...)	

SUPPLEMENTAL RESPONSE

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Supplementing applicant's Amendment of January 5, 2006, attached hereto is a declaration of Dr. Nissim Benvenisty, providing his expert opinion and analysis in support of the discussion in applicant's remarks of January 5, 2006, relating to the rejection over the Smith reference. In applicant's Amendment of January 5, 2006, the concept of dilution was explained and this discussion is further supported by the expert declaration of Dr. Benvenisty.

Accordingly, consideration of the attached declaration in conjunction with applicants amendment of January 5, 2006, and reconsideration and withdrawal of the rejections of record and allowance of this case are respectfully urged.

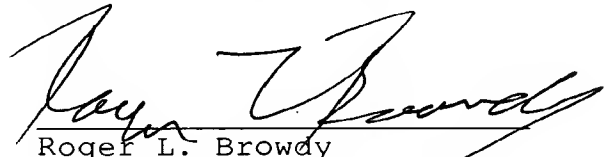
A Request for Continued Examination (RCE) was filed in this case on January 5, 2006, along with a request for suspension of action under 37 C.F.R. §1.103(c). In accordance with 37 C.F.R. §1.111(a)(2)(ii), the present Supplemental Reply would have been entered as a matter of right if filed within the period during which action by the office was suspended, i.e., by April 5, 2006. Due to an inadvertent docketing error in the office of the undersigned, the declaration, an electronic copy of which was received in the office of the undersigned on April 2, 2006, was not filed by the deadline of April 5, 2006. However, it is being promptly filed only two (2) days later, as soon as the error was noticed. It should be noted that the rulemaking accompanying the change that added this provision of 37 C.F.R. §1.111 states, at 69 FR 56517, in the response to comment 95, that examiners have discretion to enter and consider other supplemental amendments that do not fall within one of the six (6) exemplary circumstances set forth in 37 C.F.R. §1.111(a)(2)(i).

Accordingly, it is requested that the examiner exercise this discretion and enter the present declaration, notwithstanding the fact that it is being filed two (2) days after the close of the period of suspension requested under 37 C.F.R. §1.103(c) with the RCE of January 5, 2006. For the reasons explained in the Amendment of January 5, 2006, as supplemented hereby, reconsideration and allowance are respectfully urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

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